

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

ROBERTO HERNANDEZ-MARTINEZ

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Case No. 4:12cr38
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 9, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Mandy Griffith.

On October 9, 2008, Defendant was sentenced by the Honorable Reed O'Connor to fourteen (14) months' custody followed by two (2) years of supervised release for the offense of Illegal Reentry After Removal from the United States. On June 3, 2010, Defendant completed his period of imprisonment and began service of his supervised term.

On October 25, 2010, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated several mandatory and standard conditions. Violation allegation two was dismissed by the Government. The petition also alleged violation of the following conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall not possess illegal controlled substances.

The petition alleges that Defendant committed the following acts with regard to the remaining violations: On June 3, 2010, Defendant violated these conditions of supervised release as evidenced by his arrest by Plano Police Department Task Force in Plano, Texas, for Manufacture/Delivery of a Controlled Substance, in violation of Texas Penal Code 481.112(f), a first

degree felony. According to the arrest report, Defendant made arrangements to purchase three pounds of methamphetamine for \$57,000 from individuals in a vehicle who were working undercover. The case has been filed in Dallas County in case no. F-1045368 and remains pending. Defendant remains in custody pending a \$150,000 bond. Additionally, an Immigration and Naturalization Service detainer has been placed on Defendant.

On February 15, 2012, this case was transferred from the Northern District of Texas to this District and assigned to the Honorable Richard A. Schell. Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violations.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eighteen (18) months with no supervised release to follow to be served consecutively to any sentence of imprisonment that the Defendant is currently serving. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 10th day of May, 2012.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE